

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ANTHONY J AGUILAR,

Petitioner,

v.

2:20-cv-00362-RB-LF

DWAYNE SANTISTEVAN and
ATTORNEY GENERAL OF THE
STATE OF NEW MEXICO,

Respondents.

**ORDER ADOPTING MAGISTRATE JUDGE'S
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

The Magistrate Judge filed her Proposed Findings and Recommended Disposition (PFRD) on July 14, 2023. (Doc. 24.) The proposed findings notified the parties of their ability to file objections within fourteen (14) days and that failure to do so waived appellate review. (*Id.* at 17.) Objections were due on July 28, 2023.¹ Respondents filed a notice of non-objection. (Doc. 25.) On July 28, 2023, Mr. Aguilar filed a notice that appeared to indicate that he had not received respondents' answer. (Doc. 26.) The Court determined that Mr. Aguilar had received respondents' answer but perhaps was attempting to object to the Court's PFRD. (*Id.*) Because Mr. Aguilar did not make any specific objections, and given Mr. Aguilar's pro se status, the Court gave Mr. Aguilar additional time, through August 15, 2023, to submit objections to the Court's PFRD. (*See* Doc. 27.)

On August 17, 2023, the Court received Mr. Aguilar's response to the PFRD asking for an

¹ Mr. Aguilar's objections were due no later than August 1, 2023, because three days are added to the deadline if service is by mailing to the person's last known address, as it was in this case.

extension of time to file his objections. (Doc. 28.) Mr. Aguilar explained that during his transfer his property, including his documents regarding this case, were misplaced or lost. He did, however, have a copy of the PFRD. (*Id.*) The Court granted Mr. Aguilar's request for an extension of time and gave Mr. Aguilar through September 1, 2023, to file additional objections to the second PFRD. (Doc. 29.) The Court also provided Mr. Aguilar with a copy of respondent's answer (Doc. 10) with the exhibits (Doc. 10-1). (*See* Doc. 29.)

On August 21, 2023, Mr. Aguilar filed a second response to the PFRD. (Doc. 30.) In this response, Mr. Aguilar did not make any specific objections to the PFRD. Instead, he simply stated, "I do object to the proposed findings" and reiterated his claims and previous arguments. (*Id.* at 1.) However, simply stating that he objects is not sufficiently specific to preserve any issue for appellate review. *See United States v. One Parcel of Real Prop., with Buildings, Appurtenances, Improvements, & Contents, Known as: 2121 E. 30th St., Tulsa, Okla.*, 73 F.3d 1057, 1060 (10th Cir. 1996). Additionally, Mr. Aguilar advised the Court that his property had been returned to him, and he had found someone to assist him. (Doc. 30 at 6.) Mr. Aguilar thus had all the information he needed to file objections, and he had through September 1, 2023, to file any additional objections.

Mr. Aguilar did not file any additional objections and the time to do so has now passed. The Court will overrule Mr. Aguilar's objections because they are not sufficiently specific.


Wherefore,

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Magistrate Judge's Proposed Findings and Recommended Disposition (Doc. 24) are ADOPTED;
2. Anthony J. Aguilar's petition for a writ of habeas corpus pursuant to 28 U.S.C.

§ 2254 is DENIED and this case is DISMISSED with prejudice; and

3. A certificate of appealability is DENIED.



ROBERT C. BRACK
SENIOR U.S. DISTRICT JUDGE